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**FACSIMILE TRANSMISSION**

**CONFIDENTIAL**

DATE: November 3, 2003

CLIENT-MATTER No.: 23540-07445

TO:

NAME	FAX No.	PHONE No.
Chenyne D. Ly U.S. Patent and Trademark Office	703-308-4242	

FROM: Michael J. Shuster PHONE: (415) 875-2413

SENT BY: Cheryl Leger PHONE: (415) 875-2495

RE: U.S. Patent Application No. 09/955,663

NUMBER OF PAGES WITH COVER PAGE: 4	ORIGINAL WILL NOT FOLLOW
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MESSAGE:

**In Re: U.S. Patent Application No. 09/955,663  
RESPONSE TO RESTRICTION REQUIREMENT**

**CAUTION - CONFIDENTIAL**

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23540/07445/SF/5109699.1

PTO/SB/21 (modified)

Approved for use through xx/xx/xx, OMB 0651-0031

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

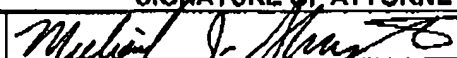
<b>TRANSMITTAL FORM</b> (to be used for all correspondence during pendency of filed application)	U.S. Department of Commerce Patent and Trademark Office	Application Number	09/955,663
		Filing Date	September 19, 2001
		First Named Inventor	David M. Rock, et al.
		Group Art Unit Number	1631
		Examiner Name	Cheyne D. Ly
Total Number of Pages in This Submission	3	Attorney Docket Number	23540-07445

**ENCLOSURES (check all that apply)**

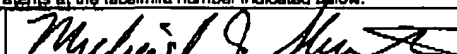
<input type="checkbox"/> Fee Transmittal Form (in duplicate) <input type="checkbox"/> Check Enclosed <input type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Response to Notice to File Missing Parts <input type="checkbox"/> Assignment & Recordation Cover Sheet <input type="checkbox"/> Declaration <input type="checkbox"/> Power of Attorney <input type="checkbox"/> Application Data Sheet <input type="checkbox"/> Information Disclosure Statement & PTO/SB/08A <input type="checkbox"/> Copies of IDS Cited References <input type="checkbox"/> Request for Corrected Filing Receipt <input type="checkbox"/> Request for Correction of Recorded Assignment <input type="checkbox"/> Amendment/Response: [ ] Page(s) <input type="checkbox"/> After Final <input type="checkbox"/> Status Request <input type="checkbox"/> Revocation and Substitute Power of Attorney	<input type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Letter to Chief Draftsperson <input type="checkbox"/> Formal Drawing(s): [ ] Sheet(s) of Figure(s) [ ] <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> After Allowance Communication to Group <input checked="" type="checkbox"/> Response to Restriction Requirement <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
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REMARKS:

**SIGNATURE OF ATTORNEY OR AGENT**

Signature:			
Attorney/Reg. No.:	Michael J. Shuster/Reg. No. 41,310	Dated:	Nov. 3, 2003

**CERTIFICATE OF FACSIMILE TRANSMISSION**

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23540/07445/SF/5109695.1

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IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE

FIRST NAMED APPLICANT:	David M. Roche
APPLICATION NO.:	09/955,663
FILING DATE:	September 19, 2001
TITLE:	METHOD FOR DETERMINING MEASUREMENT ERROR FOR NUCLEIC ACID MICROARRAYS
EXAMINER:	C. Dune Ly
GROUP ART UNIT:	1631
ATTY. DKT. NO.:	23540-07445/US (PLEASE NOTE NEW DOCKET NUMBER)
<b>CERTIFICATE OF MAILING/TRANSMISSION</b> I hereby certify that this correspondence is being <input type="checkbox"/> deposited on the date shown below with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop xxxx, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450. <input checked="" type="checkbox"/> transmitted on the date shown below via facsimile to the attention of: Examiner Ly facsimile number 703-308-4242 Dated: <u>November 3, 2003</u> By: <u>Michael J. Shuster</u> Michael J. Shuster, Ph.D., Reg. No.: 41,310	

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## RESPONSE (37 C.F.R. § 1.111)

SIR:

Responsive to the Office Action dated October 2, 2003 received in the above-identified patent application, please enter the following species election. Because November 2, 2003 fell on a Sunday, this Response is timely filed.

Attorney Docket No.:23540-07445/US

Client Ref.:2001-072-2

Application No.:09/955,663

## REMARKS

### STATUS OF THE CLAIMS

Claims 1-14 are pending in this application.

### ELECTION/RESTRICTION REQUIREMENT


Pursuant to the species election restriction requirement, applicant elects for prosecution on the merits the species of claim 8. Claims 9-12 are readable on this species, while claims 1-8 are generic. The species election is made without traverse.

### CONCLUSION

Reconsideration of the claims is respectfully requested, and a notice of allowance is earnestly solicited. If the Examiner has any questions concerning this Response, the Examiner is invited to telephone Applicants' representative at (415) 875-2413.

Respectfully submitted,  
THE REGENTS OF THE UNIVERSITY OF  
CALIFORNIA

Dated: November 3, 2003

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